

AN ACT relating to administrative regulations.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

□ Section 1. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;
- (2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, and the amendment, renewal, or repeal of an existing administrative regulation, but does not include:
  - (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;
  - (b) Declaratory rulings;
  - (c) Intradepartmental memoranda not in conflict with KRS 13A.130;
  - (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or
  - (e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;
- (3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

- (4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;
- (5) "Commission" means the Legislative Research Commission;
- (6) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;
- (7) "Federal mandate" means any federal constitutional, legislative, or executive law or order that requires or permits any administrative body to engage in regulatory activities that impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;
- (8) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;
- (9) "Filed" or "promulgated" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;
- (10) *"Last effective date" means the most recent date an ordinary administrative regulation became effective pursuant to KRS 13A.330 or 13A.331 and does not include the date a technical amendment was made pursuant to KRS 13A.2255(2) or 13A.312 or subsection (10) of Section 2 of this Act.*
- (11) "Local government" means and includes a city, county, urban-county, charter county, consolidated local government, special district, or a quasi-governmental body authorized by the Kentucky Revised Statutes or a local ordinance;
- (12)~~(11)~~ "Proposed administrative regulation" means an administrative regulation that:
- (a) Has been filed by an administrative body; and
  - (b) Has not become effective or been withdrawn;
- (13)~~(12)~~ "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;
- (14)~~(13)~~ "Small business" means a business entity, including its affiliates, that:

- (a) Is independently owned and operated; and
- (b) 1. Employs fewer than one hundred fifty (150) full-time employees or their equivalent; or
- 2. Has gross annual sales of less than six million dollars (\$6,000,000);

~~(15)~~~~(14)~~ "Statement of consideration" means the document required by KRS 13A.280 in which the administrative body summarizes the comments received, its responses to those comments, and the action taken, if any, as a result of those comments and responses;

~~(16)~~~~(15)~~ "Subcommittee" means the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, an interim joint committee, or a House and Senate standing committee;

~~(17)~~~~(16)~~ "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities; and

~~(18)~~~~(17)~~ "Written comments" means comments submitted to the administrative body's contact person identified pursuant to KRS 13A.220(6)(d) via hand delivery, United States mail, e-mail, or facsimile and may include but is not limited to comments submitted internally from within the promulgating administrative body or from another administrative body.

□ Section 2. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

- (1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;
- (2) Stamp administrative regulations tendered for filing with the time and date of receipt;
- (3) Provide administrative and support services to the subcommittee;
- (4) Maintain a file of administrative regulations and other documents required to be

- filed by this chapter, for public inspection, with suitable indexes;
- (5) Maintain a file of ineffective administrative regulations;
  - (6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;
  - (7) Prepare the Kentucky Administrative Regulations Service;
  - (8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;
  - (9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;
  - (10) Change items in an administrative regulation in response to a specific written request for a technical amendment submitted by the administrative body if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation. Examples of technical amendments include the address of the administrative body, citations to statutes or other administrative regulations if a format change within that statute or administrative regulation has changed the numbering or lettering of parts, or other changes in accordance with KRS 13A.312;
  - (11) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the drafting, formatting, or filing requirements established by the provisions of KRS 13A.190(4) to (10), 13A.220, 13A.222(1), (2), and (3), 13A.230, and 13A.280, and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing;
  - (12) Maintain a list of all administrative regulation numbers and the corresponding last effective date, based on the information included in the history line of each administrative regulation;** and

~~(13)~~~~(12)~~ Perform other duties required by the Commission or by a subcommittee.

□ Section 3. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

- (1) (a) An administrative body shall file with the regulations compiler:
  1. The original and five (5) copies of an administrative regulation; and
  2. At the same time as, or prior to, filing the paper version, an electronic version of the administrative regulation and required attachments saved as a single document for each administrative regulation in an electronic format approved by the regulations compiler.
- (b) If there are differences between the paper copy and the electronic version of an administrative regulation filed with the regulations compiler, the electronic version shall be the controlling version.
- (2) The original and four (4) copies of each administrative regulation shall be stapled in the top left corner. The fifth copy of each administrative regulation shall not be stapled. The original and the five (5) copies of each administrative regulation shall be grouped together.
- (3) An amendment to, or renewal of, an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. The amendment or renewal~~H~~ shall be a typed original in the format specified in subsection (4) of this section.
- (4) The format of an administrative regulation shall be as follows:
  - (a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced through the last line of the body of the administrative regulation. The first page shall have a two (2) inch top margin. The administrative regulation shall be typed in

a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered, with each page starting with line number one (1). Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

- (b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;
- (c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After Comments)," "(Repealer)," "(New Emergency Administrative Regulation)," "(Emergency Amendment)," ~~"(Emergency Repealer),"~~ "(Emergency Repealer)," or "(Renewal)," whichever is applicable;
- (d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;
- (e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the

promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.222(4)(n) and (o); and

- (f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).
- (5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period (e.g., a., b., c., etc.). Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.). A section shall not be divided into subsections, paragraphs, subparagraphs, clauses, or subclauses if there is only one (1) item in that level of division.
- (6) After the complete text of an administrative regulation, on the following page, the administrative body shall include the following information:
  - (a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the

administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

- (b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;
  - (c) Information relating to public hearings and the public comment period required by KRS 13A.270; and
  - (d) The name, position, mailing address, telephone number, e-mail address, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:
    - 1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;
    - 2. Negotiate changes in language with a subcommittee in order to resolve such issues; and
    - 3. Answer questions relating to the administrative regulation.
- (7) The format for signatures required by subsection (6)(a) and (b) of this section shall be as follows:
- (a) The signature shall be placed on a signature line; and
  - (b) The name and title of the person signing shall be typed immediately beneath the signature line.
- (8) (a) A letter of request, notification, or withdrawal required to be filed with the regulations compiler pursuant to this chapter may be filed electronically if the letter:
- 1. Is on the administrative body's official letterhead; and
  - 2. Contains the signature of a representative of that administrative body.
- (b) Paragraph (a) of this subsection shall not apply to the letters required by KRS



13A.320(2)(b) for amendments at a subcommittee meeting.

☐ Section 4. KRS 13A.222 is amended to read as follows:

- (1) In a new administrative regulation *or a renewal of an administrative regulation*, there shall be no underlining or bracketing.
- (2) In an amendment to an administrative regulation, the new words shall precede the deleted words. The administrative body shall:
  - (a) Underline all new words; and
  - (b) Place the deleted words in brackets and strike through these words.
- (3) (a) An administrative regulation shall not be amended by reference to a section only. An amendment shall contain the full text of the existing administrative regulation being amended. All changes made to the text of the existing administrative regulation shall be marked as required by subsection (2) of this section.
  - (b) A section of an administrative regulation shall not be reserved for future use.
- (4) In drafting administrative regulations, the administrative body shall comply with the following requirements:
  - (a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;
  - (b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may";
  - (c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not

separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

- (d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which the definitions appear. The format for this reference shall be: ("Defined term") is defined by KRS (specific citation).";
- (e)
  - 1. If definitions are used, they shall be placed in alphabetical order in the first section of an administrative regulation or in a separate administrative regulation.
  - 2.
    - a. If definitions are placed in the first section of an administrative regulation, the definitions shall govern only the terms in that administrative regulation.
    - b. The section shall be titled "Definition." or "Definitions."
    - c. A definition shall not be included in a definitions section if the defined term is not used in that administrative regulation or the material incorporated by reference in that administrative regulation.
  - 3.
    - a. If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of the specific chapter of the Kentucky Administrative Regulations Service to which the definitions apply.
    - b. The title of the administrative regulation shall contain the number of the chapter of the Kentucky Administrative Regulations Service

to which the definitions apply and shall be in the format:

"Definitions for (title number) KAR Chapter (chapter number)."

- c. A definition shall not be included in a definitions administrative regulation if the defined term is not used in an administrative regulation in that specific chapter or the material incorporated by reference in an administrative regulation in that chapter.
4. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used.
5. Definitions shall be used only:
  - a. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one (1) of several dictionary meanings;
  - b. To avoid repetition of a phrase; or
  - c. To limit or extend the provisions of an administrative regulation.
6. Definitions shall not establish requirements or standards;
- (f) If a word has the same meaning as a phrase, the word shall be used;
- (g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;
- (h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;
- (i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where";
- (j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;
- (k) Any reference in an administrative regulation to "medical doctor," "M.D.," or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless

either of those terms is specifically excluded;

- (l) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	----
And the same hereby is	is
Either directly or indirectly	----
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Including but not limited to	State the specific items to be included.
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall
It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology. However, "et seq." may be used for citations.
Null and void and of no effect	void

Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if;

- (m) 1. Unless the authority for an administrative regulation is an appropriation provision that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of an administrative regulation shall be cited.
2. a. If an act has not been codified in the Kentucky Revised Statutes at the time an administrative regulation is promulgated, or if the authority is any branch budget bill, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), sec. (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.
- b. For acts of extraordinary sessions, the citation shall be as follows: "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)." If there is more than one (1) extraordinary session of the General Assembly in the year, the citation shall specify the specific extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)."
3. When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation of the Kentucky Revised Statutes in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.

4. If the statutory authority is an appropriation act, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and subpart numbers)."
5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-(number of executive order)";
- (n) If the statutory authority is a federal statute, the citation shall be the:
  1. United States Code (U.S.C.), if it has been codified; or
  2. Public Law (Pub. L.) and official session laws, if it has not been codified;
- (o)
  1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: "(title number) C.F.R. (part and section number)."
  2.
    - a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: "(volume number) Fed. Reg. (page number) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified)."
    - b. When the federal regulation is codified, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.
  3.
    - a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which the federal regulation is codified, the citation shall be to the Federal Register as follows: "(federal regulation that has been amended), (volume number) Fed. Reg. (page number) (effective date of the amendment)."
    - b. When the amendment is codified in the appropriate volume of the

Code of Federal Regulations, the citation shall be amended to read as provided by subparagraph 1. of this paragraph;

- (p) Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs (m), (n), and (o) of this subsection; and
- (q) An administrative regulation may cite the popular name of a federal or state law if the first usage of the popular name in that administrative regulation is accompanied by the citation required by this subsection.

□ Section 5. KRS 13A.310 is amended to read as follows:

- (1) **Except as provided in subsection (6) of this section,** an administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.
- (2) **Except as provided in subsection (6) of this section,** an administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.
- (3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:
  - 1. Is titled "Repeal of (state number of administrative regulation to be repealed)";
  - 2. Contains the reasons for repeal in the "NECESSITY, FUNCTION, AND CONFORMITY" paragraph;
  - 3. Includes in the body of the administrative regulation, a citation to the number and title of the administrative regulation or regulations being repealed; and
  - 4. Meets the filing and formatting requirements of KRS 13A.220.
- (b) 1. Except as provided in subparagraph 2. of this paragraph, on the effective date of an administrative regulation that repeals an administrative

regulation, determined in accordance with KRS 13A.330 or 13A.331, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

2. If the repealing administrative regulation specifies an effective date that is after the administrative regulation would become effective pursuant to KRS 13A.330 or 13A.331, the specified effective date shall be considered the effective date of the repealing administrative regulation. On the specified effective date, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.
- (c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.
- (4) (a) An ordinary administrative regulation may be withdrawn by the promulgating administrative body at any time prior to its adoption.
- (b) An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating administrative body at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to KRS 13A.330 or 13A.331 or may be withdrawn by the Governor.
- (c) If an ordinary administrative regulation is withdrawn, the administrative body or the Governor shall inform the regulations compiler of the reasons for withdrawal in writing.
- (5) Once an ordinary administrative regulation is withdrawn, it shall not be reinstated, except by repromulgation as a totally new matter.



- (6) (a) Except as provided in paragraph (b) of this subsection, beginning July 1, 2017, an ordinary administrative regulation shall expire seven (7) years after its last effective date.
- (b) An administrative regulation that has a last effective date prior to July 1, 2012, shall expire on July 1, 2019.
- (7) Beginning July 1, 2019, the regulations compiler shall:
- (a) Delete expired administrative regulations from the Kentucky Administrative Regulations Service; and
- (b) Add all administrative regulations that expire pursuant to subsection (6) of this section to the list established in subsection (5) of Section 2 of this Act.
- (8) (a) Within three (3) months of the effective date of this Act, the regulations compiler shall send each administrative body a list of the current administrative regulations promulgated by that administrative body and the corresponding last effective dates of those administrative regulations.
- (b) If an administrative body does not want an administrative regulation to expire pursuant to subsection (6) of this section, the administrative body shall:
1. Review the administrative regulation as required by KRS 13A.221 in its entirety for compliance with the requirements of KRS Chapter 13A and current law governing the subject matter of the administrative regulation; and
  2. At least seven (7) months prior to the expiration date established by subsection (6) of this section, file an administrative regulation that complies with the requirements of this chapter and is styled as:
    - a. An "(Amendment)," which includes the changes required following the review conducted pursuant to subparagraph 1. of this paragraph, with the changes marked as required by

subsection (2) of Section 4 of this Act; or

b. A "(Renewal)," which may be filed only if the review conducted pursuant to subparagraph 1. of this paragraph indicates that changes are not needed to the existing administrative regulation.

(c) 1. If the amendment or renewal becomes effective pursuant to KRS 13A.330 or 13A.331 prior to the expiration date established by subsection (6) of this section, the administrative regulation shall not expire.

2. a. If the amendment or renewal does not become effective pursuant to KRS 13A.330 or 13A.331 prior to the expiration date established by subsection (6) of this section, the administrative regulation shall not expire if the amendment or renewal was filed in accordance with paragraph (b)2. of this subsection and is continuing through the administrative regulations process.

b. If the administrative body withdraws the amendment or renewal, the administrative regulation shall expire pursuant to subsection (6) of this section.